

Introduced by Senator Liu

February 14, 2011

An act to amend Sections 1596.75 and 1596.750 of the Health and Safety Code, relating to care facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 309, as introduced, Liu. Child day care facilities: youth with disabilities.

Existing law, the California Child Day Care Facilities Act, administered by the State Department of Social Services, provides for the licensure and regulation of child day care facilities, as defined. Willful or repeated violation of these provisions is a misdemeanor. The act defines a child as a person who is under 18 years of age who is being provided care and supervision in a child day care facility, with specified exceptions. Under existing law, a child day care facility is authorized to provide nonmedical care to children under 18 years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis.

Existing law provides for educational programs for persons with exceptional needs. Existing law includes within the definition of an individual with special needs a person between 19 and 21 years of age, who is enrolled in or eligible for a special education program prior to his or her 19th birthday, and who has not yet completed his or her prescribed course of study, has not met proficiency standards, or has not graduated from high school with a regular high school diploma. Existing law provides that a person who becomes 22 years of age during the months of January to June, inclusive, while participating in one of these special education programs, as specified, may continue his or her

participation in the program for the remainder of the current fiscal year, including any extended school year program for individuals with exceptional needs established pursuant to specified state and federal law.

This bill would provide that for purposes of the California Child Day Care Facilities Act, an individual with developmental disabilities between 18 and 22 years of age who is still enrolled in school and who has an individual education plan (IEP) or an individual transition plan would be within the definition of a child. The bill would provide that an individual who satisfies these criteria would be classified as “schoolage” for purposes of a child day care facility with a schoolage child care center license, as defined, and would be eligible to continue his or her services through programs with the specified license.

By changing the definition of an existing crime with respect to the California Child Day Care Facilities Act, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Section 56026 of the Education Code allows a youth between
- 4 19 and 21 years of age who has not yet completed his or her course
- 5 of study to be eligible for certain special education programs.
- 6 (b) Section 1596.75 of the Health and Safety Code defines a
- 7 child for purposes of the California Child Day Care Facilities Act
- 8 as a person under 18 years of age. A child day care facility, as
- 9 defined in Section 1596.750 of the Health and Safety Code, refers
- 10 to a facility that provides nonmedical care to children less than 18
- 11 years of age.
- 12 (c) This inconsistency results in placement of students with
- 13 disabilities between the ages of 18 and 22 in the adult category in

1 day care facilities, even though these students are still legally
2 children until the age of 21.

3 (d) Children with disabilities between 18 and 22 years of age
4 should be allowed to choose to participate and socialize with their
5 peer group.

6 (e) California law should be consistent, in order to allow child
7 day care facilities to meet the needs of children with disabilities.

8 SEC. 2. Section 1596.75 of the Health and Safety Code is
9 amended to read:

10 1596.75. (a) “Child” means a person who is under 18 years
11 of age who is being provided care and supervision in a child day
12 care facility, except where otherwise specified in this act.

13 (b) *Notwithstanding subdivision (a), “child” also includes an*
14 *individual with developmental disabilities between 18 and 22 years*
15 *of age who is still enrolled in school and has an individual*
16 *education plan (IEP) or an individual transition plan. An individual*
17 *who satisfies these criteria shall be classified as “schoolage” for*
18 *purposes of a facility with a schoolage child care center license,*
19 *as defined in Section 101482 of Title 22 of the California Code of*
20 *Regulations, and shall continue his or her eligibility for services*
21 *through these licensed programs.*

22 SEC. 3. Section 1596.750 of the Health and Safety Code is
23 amended to read:

24 1596.750. (a) “Child day care facility” means a facility that
25 provides nonmedical care to children under 18 years of age in need
26 of personal services, supervision, or assistance essential for
27 sustaining the activities of daily living or for the protection of the
28 individual on less than a 24-hour basis. Child day care facility
29 includes day care centers, employer-sponsored child care centers,
30 and family day care homes.

31 (b) *Notwithstanding subdivision (a), “child day care facility”*
32 *also includes a facility that provides nonmedical care to an*
33 *individual with developmental disabilities between 18 and 22 years*
34 *of age, who is still enrolled in school and has an individual*
35 *education plan (IEP) or an individual transition plan. An individual*
36 *who satisfies these criteria shall be classified as “schoolage” for*
37 *purposes of a facility with a schoolage child care center license,*
38 *as defined in Section 101482 of Title 22 of the California Code of*
39 *Regulations, and shall continue his or her eligibility for services*
40 *through these licensed programs.*

1 SEC. 4. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.

O